

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

UNITED STATES OF AMERICA,

Plaintiff,

v.

COLBY WAKIZA YOUNG BIRD,

Defendant.

Case No. 1:18-cr-00030

**UNITED STATES' SENTENCING
MEMORANDUM**

The United States of America, by Christopher C. Myers, United States Attorney for the District of North Dakota, and Jonathan J. O'Konek, Assistant United States Attorney, respectfully submits this Sentencing Memorandum in the above-entitled case. The United States recommends that this Court sentence the defendant to: 1) serve 15 months' imprisonment; 2) serve a five-year term of supervised release; and 3) pay the \$100 special assessment. The defendant was detained in federal custody on February 28, 2018, and released on conditions on March 2, 2018. On July 26, 2018, the defendant attended a change of plea wherein he provided a factual basis for his plea of guilty; however, the court deferred acceptance of the defendant's plea until the time of sentencing. Therefore, at the time of sentencing, the United States requests that this Court accept the defendant's plea of guilty.

The defendant previously asserted his intent to plead guilty to a single count of Abusive Sexual Contact, in violation of 18 U.S.C. § 2244(a)(2) and 1153. This offense carries a three year maximum sentence of imprisonment. The Presentence Investigation Report (PSR) states that the defendant is in criminal history category I and has a total

offense level of 13. Based upon the PSR, the defendant has a guideline imprisonment range of 12 to 18 months. The United States does not object to the contents contained within or the guideline range calculated in the PSR.

The defendant engaged in sexual contact with the sister of the mother of his children while she was incapable of appraising the nature of the conduct due to alcohol intoxication. The United States posits that a 15 month sentence, which is the middle of the sentencing guideline range, is a sentence that is sufficient, but not greater than necessary to comply with 18 U.S.C. § 3553(a). Specifically, this sentence will promote deterrence, protect the public from future crimes by the defendant, provide the defendant with correctional treatment, promote respect for the law, and take into consideration the nature and circumstances of the offense and the history and characteristics of the defendant.

Dated: November 14, 2018

CHRISTOPHER C. MYERS
United States Attorney

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